

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PUBLIC HEARING ON
17.56.502, pertaining to reporting of)	PROPOSED AMENDMENT
suspected releases)	
)	(UNDERGROUND STORAGE
)	TANKS)

TO: All Concerned Persons

1. On November 12, 2008, at 10:30 a.m., a public hearing will be held in Room 112, 1100 North Last Chance Gulch, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact Elois Johnson no later than 5:00 p.m., November 3, 2008, to advise us of the nature of the accommodation that you need. Please contact Elois Johnson, Paralegal, at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov.

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

17.56.502 REPORTING OF SUSPECTED RELEASES (1) Owners and operators, any person who installs or removes an UST, or who performs subsurface investigations for the presence of regulated substances, and any person who performs a tank tightness or line tightness test pursuant to ARM 17.56.407 or 17.56.408, must report suspected releases to a person within the Remediation Division of the department and the implementing agency or to the 24-hour Disaster and Emergency Services officer available at telephone number (406) 841-3911 within 24 hours of discovery of the existence of any of the following conditions:

(a) through (h) remain the same.

(i) sampling, testing, or monitoring results from a release detection method, required under subchapter 4, that are inconclusive and cannot rule out the occurrence of a release, unless the monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced, and subsequent monitoring, sampling, or testing indicates that the system is not leaking; ~~and~~

(j) analytical results from soil samples that exceed 200 milligrams per kilogram for extractable petroleum hydrocarbons (EPH); ~~and~~

(k) activation of a leak detection equipment monitoring alarm, or activation of flow restriction mode for a mechanical line leak detector, unless:

(i) within 24 hours of the occurrence of the condition, the condition is investigated, the cause of the condition is discovered, corrected, and a release to the environment or to secondary containment has not occurred;

(ii) the leak detection system is returned to a fully operational condition within 24 hours; and

(iii) records documenting the cause of the condition and the investigative and corrective actions undertaken in response to the condition are maintained for a three-year period at the facility, or at a readily available alternative site, where the records may be provided for inspection by the department upon request.

(2) remains the same.

AUTH: 75-11-319, 75-11-505, MCA

IMP: 75-11-309, 75-11-505, MCA

REASON: This amendment is necessary to ensure that owners, operators, and other persons knowledgeable in the operation and maintenance of UST systems report or investigate leak detection equipment warnings, alarms, or abnormal equipment operation notifications that may indicate a release of regulated substances into the environment so that necessary actions to cease further release and initial response and abatement measures, pursuant to ARM 17.56.602, may be undertaken without delay. Timely reporting or investigative actions in response to leak detection equipment warnings, alarms, or abnormal equipment operation notifications, that indicate releases may be occurring, can significantly reduce risks to human health, safety, and the environment. Failure to take timely and appropriate actions to address releases may cause severe damage to the environment, serious risks of fire and explosion, and acute and chronic health impacts in affected human populations. It is necessary to maintain records related to leak detection equipment warnings, alarms, or abnormal equipment operation notifications. The records are necessary to document the cause of the condition, and investigative and corrective actions undertaken in response to the condition. It is necessary to maintain the records for three years so that these records are available to assist the owner, operator, and the department in the investigation of any later-discovered releases to the environment.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana, 59620-0901; faxed to (406) 444-4386; or e-mailed to ejohnson@mt.gov, no later than 5:00 p.m., November 20, 2008. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. Kirsten Bowers, attorney, has been designated to preside over and conduct the hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list must make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil;

asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Elois Johnson, Paralegal, Legal Unit, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to ejohnson@mt.gov, or may be made by completing a request form at any rules hearing held by the department.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL
QUALITY

/s/ James M. Madden

JAMES M. MADDEN

Rule Reviewer

/s/ Richard H. Oppen

RICHARD H. OPPER, Director

Certified to the Secretary of State, October 14, 2008.